

- v. SWBT will provide the administrative services, as discussed in the Affidavit of Kathleen Larkin, to unaffiliated entities on the same terms and conditions that are offered to SBLD.
- vi. For as long as FCC rules require it, to the extent SWBT develops new services for or with SBLD, it will also develop new services with other similarly situated telecommunications carriers on a nondiscriminatory basis. Since the entry of the Non-Accounting Safeguards First Report and Order, SWBT has undertaken to identify and discontinue, subject to any reconsideration by the FCC or by appellate courts, any product development services provided to SBLD that could not be provided on a nondiscriminatory basis to other, similarly-situated, telecommunications carriers.
- vii. SWBT will continue to participate in public standards-setting bodies and will also continue to negotiate interconnection arrangements on a nondiscriminatory basis with any requesting telecommunications carrier. SWBT will not discriminate in favor of SBLD in the establishment of any standards, including but not limited to industry-wide standards, that affect the interconnection or interoperability of two or more public network operations.
- viii. New local exchange or exchange access services and new interfaces that affect interconnection or interoperability, including any carrier-specific interfaces SWBT introduces, will be made available to all carriers at the same time and on the same terms and conditions as they are made available to SBLD.

- ix. **SWBT will not discriminate between SBLD and other entities with regard to the dissemination of technical information and interconnection standards related to telephone exchange and exchange access services.**
- x. **SWBT will provide any required public notice network changes that will affect a competing telecommunications carrier's performance or ability to provide service or will affect the SWBT's interoperability with other telecommunications carriers. Distribution will be made to all entities requesting notice, all interconnecting carriers, and all entities on SWBT's distribution lists for technical information and interconnection standards. Until public notice has been given in accordance with the FCC's rules, SWBT will not disclose to SBLD, or to any other affiliated or unaffiliated telecommunications carrier, information about planned network changes that are subject to the FCC's network disclosure requirements.**
- xi. **SWBT does not and will not disclose to SBLD, without the consent of the carrier involved, any unaffiliated carrier's proprietary information, including, but not limited to, its network configuration or interconnection arrangements, exchange access usage, customer preferred interexchange carrier selections, and purchases of telephone exchange services or network elements from SWBT. SWBT will not disclose to SBLD, without the consent of the carrier involved, any unaffiliated carrier's proprietary information that has come into SWBT's possession as a result of its provision of billing services to that carrier.**
- xii. **SWBT will not disclose any individually identifiable Customer Proprietary Network Information ("CPNI") to SBLD except to the extent such**

disclosure is consistent with Section 222 of the 1996 Act and Commission rules. SWBT will honor affirmative written requests from customers to disclose CPNI to an unaffiliated carrier in the same manner and in the same interval as requests for disclosure to affiliated companies.

- xiii. SWBT will not discriminate between SBLD and unaffiliated interexchange carriers in the processing of presubscribed interexchange carrier ("PIC") change orders.

b. **SWBT/PBCOM**

- i. As set forth above, SWBT will not discriminate in favor of its Section 272 affiliates in the provision or procurement of goods, services, facilities, and information or in the establishment of standards. While the 1996 Act and applicable FCC rules permit joint marketing on a discriminatory basis, SWBT will provide any joint marketing services to PBCOM on a compensatory basis that complies with the arms-length requirements of the 1996 Act. SWBT will make available to unaffiliated entities all other non-joint-marketing goods, services, facilities, and information that SWBT provides to PBCOM as Section 272 requires and as ordered in the Non-Accounting Safeguards First Report and Order. Non-joint-marketing related goods, services, facilities, and information will be made available to unaffiliated entities at the same rates, and on the same terms and conditions, as are provided to PBCOM. Where SWBT offers services or facilities on a tariffed basis, they will be provided to PBCOM at the same rates, and on the same terms and conditions, as are available to nonaffiliated entities under the applicable tariffs.

- ii. If SWBT provides administrative, non-joint-marketing services to PBCOM, these services will be provided to PBCOM on non-discriminatory rates, terms, and conditions that are available to similarly-situated non-affiliates. Either SWBT or a shared services affiliate may provide joint marketing services to PBCOM without regard to whether those services are available to non-affiliates.
- iii. PBCOM may negotiate with SWBT on an arm's-length basis to obtain transmission and switching facilities from SWBT, to arrange for collocation of facilities, or to provide or to obtain administrative services (services other than joint marketing services or "operating, installation, or maintenance" services in connection with PBCOM's switching or transmission facilities).
- iv. SWBT will provide unaffiliated carriers with the same exchange access, interconnection, collocation, unbundled network elements, and resold services that are provided to PBCOM on non-discriminatory rates, terms, and conditions. SWBT will provide telecommunications services and network elements to PBCOM using the same service parameters, interfaces, intervals, standards, procedures, and practices used to serve other carriers and retail customers.
- v. For as long as applicable FCC rules require it, to the extent SWBT develops new services for or with PBCOM, it will also develop new services with other, similarly-situated, telecommunications carriers on a nondiscriminatory basis.

- vi. SWBT will continue to participate in public standards-setting bodies and will also continue to negotiate interconnection arrangements on a nondiscriminatory basis with any requesting telecommunications carrier. SWBT will not discriminate in favor of PBCOM in the establishment of any standards, including but not limited to industry-wide standards, that affect the interconnection or interoperability of two or more public network operations.
- vii. New local exchange or exchange access services and new interfaces that affect interconnection or interoperability, including any carrier-specific interfaces SWBT introduces, will be made available to all carriers at the same time and on the same terms and conditions as they are made available to PBCOM.
- viii. SWBT will not discriminate between PBCOM and other entities with regard to the dissemination of technical information and interconnection standards related to telephone exchange and exchange access services.
- ix. As set forth above, SWBT will provide any required public notice network changes that will affect a competing telecommunications carrier's performance or ability to provide service or will affect the SWBT's interoperability with other telecommunications carriers. Distribution will be made to all entities requesting notice, all interconnecting carriers, and all entities on SWBT's distribution lists for technical information and interconnection standards. Until public notice has been given in accordance with the FCC's rules, SWBT will not disclose to PBCOM, or to any other affiliated or unaffiliated telecommunications carrier, information

about planned network changes that are subject to the FCC's network disclosure requirements.

- x. SWBT does not and will not disclose to PBCOM, without the consent of the carrier involved, any unaffiliated carrier's proprietary information, including, but not limited to, its network configuration or interconnection arrangements, exchange access usage, customer preferred interexchange carrier selections, and purchases of telephone exchange services or network elements from SWBT. SWBT will not disclose to PBCOM, without the consent of the carrier involved, any unaffiliated carrier's proprietary information that has come into SWBT's possession as a result of its provision of billing services to that carrier.
- xi. SWBT will not disclose any individually identifiable CPNI to PBCOM except to the extent such disclosure is consistent with Section 222 of the 1996 Act and Commission rules. SWBT will honor affirmative written requests from customers to disclose CPNI to an unaffiliated carrier in the same manner and in the same interval as requests for disclosure to affiliated companies.
- xii. SWBT will not discriminate between PBCOM and unaffiliated interexchange carriers in the processing of PIC change orders.

F. FULFILLMENT OF CERTAIN REQUESTS

1. SWBT WILL PROVIDE NONDISCRIMINATORY INSTALLATION AND MAINTENANCE OF TELEPHONE EXCHANGE AND EXCHANGE ACCESS

- a. SWBT will fulfill equivalent service requests received for telephone exchange and exchange access service from SBLD, PBCOM, and from nonaffiliated entities within equivalent intervals. Requests of a certain size, level of complexity, and

specific geographic location will be fulfilled on an equivalent basis. Service requests received from nonaffiliated entities will be fulfilled within a period of time no longer than the period in which SWBT responds to an equivalent request from SBLD, PBCOM, or SWBT itself.

- b. SWBT will not discriminate in favor of SBLD or PBCOM or against any unaffiliated carrier in the installation of exchange access services. SBLD and PBCOM (to the extent applicable) will be required to order exchange access services in accordance with the same procedures and on the same terms and conditions as unaffiliated telecommunications carriers, using the industry standard formats. Due date intervals will be assigned on a non-discriminatory basis in accordance with published standards, except for orders that exceed specified quantities, in which case SWBT will negotiate interval parameters on a nondiscriminatory basis. SWBT will not favor SBLD or PBCOM (to the extent applicable) in conducting such negotiations.
- c. SWBT will not discriminate in the repair of exchange access services based on the identity of the interexchange carrier involved. SWBT will use the same procedures, systems, and personnel to maintain and repair comparable services, regardless of which carrier or customer is receiving the service.
- d. All interexchange carriers, including SBLD and PBCOM (to the extent applicable), use or will use the same centralized repair centers for reporting trouble to SWBT. In establishing repair commitments, SWBT accords priority, in accordance with the National Security Emergency Preparedness guidelines, to trouble reports for known critical services, such as hospitals and police and fire departments. Non-critical trouble tickets will be handled on a first-in, first-out basis, with priority

given to total outages. Technicians will be dispatched based upon commitment intervals and not by the identity of the carrier.

2. **SWBT WILL PROVIDE FACILITIES, INFORMATION, AND SERVICES CONCERNING THE PROVISION OF EXCHANGE ACCESS TO SBLD (OR PBCOM, TO THE EXTEND APPLICABLE) ON THE SAME BASIS AS UNAFFILIATED INTERLATA PROVIDERS**

For as long as SBLD or PBCOM remain a separate affiliate from SWBT, SWBT will not provide any facilities, services, or information concerning its provision of exchange access to SBLD or to PBCOM unless such facilities, services, or information are made available to other providers of interLATA services in that market on the same terms and conditions made available to similarly situated telecommunications carriers. If SBLD or PBCOM purchase exchange access services from SWBT, SBLD or PBCOM will purchase such services on rates, terms and conditions available to other providers of interLATA services and in a manner consistent with all applicable state and federal regulatory requirements.

3. **SWBT WILL CHARGE SBLD AND PBCOM, OR IMPUTE TO ITSELF, ACCESS CHARGES**

SWBT will charge SBLD and PBCOM, or impute to itself (if using exchange access for the provision of its own services), rates for telephone exchange service and exchange access that are no less than the rate charged to any unaffiliated interexchange carrier for such service, taking into account the comparability of the service. If SBLD or PBCOM purchase telecommunications services from SWBT, SBLD or PBCOM will purchase such services at the same rates, terms, and conditions (including volume and term discounts) as those available to unaffiliated providers.

4. SWBT WILL PROVIDE INTERLATA OR INTRALATA FACILITIES OR SERVICES ON A NONDISCRIMINATORY BASIS

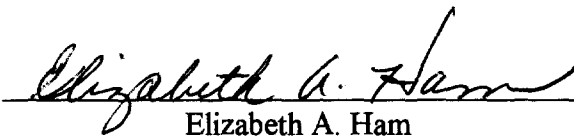
For as long as SBLD or PBCOM is a separate affiliate from SWBT, SWBT will provide interLATA or intraLATA facilities or services to SBLD or to PBCOM only if such services or facilities are made available to all carriers at the same rates and on the same terms and conditions. SBLD's and PBCOM's purchases of such services, if any, will be made in the manner prescribed by the FCC. In all such cases, the rates, terms, and conditions available to SBLD or PBCOM will be available to all other similarly situated telecommunications carriers.

G. JOINT MARKETING OF SWBT, SBLD, AND PBCOM SERVICES

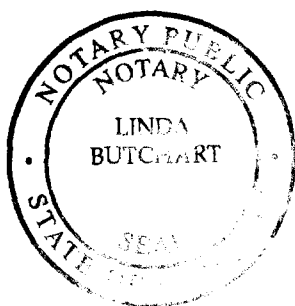
1. If SBLD is permitted to jointly market SWBT telephone exchange services, SWBT will permit other entities offering the same or similar services to market and sell SWBT telephone exchange services.
2. When SBLD receives authorization to provide in-region interLATA services, SWBT may market or sell SBLD's services as permitted. If SWBT markets or sells SBLD interLATA service, SWBT will inform any customer who orders new local exchange services on an inbound call that it has a choice in long distance carriers, and on request will inform these customers of the names and the telephone numbers of carriers offering interexchange services in its service area. The names of such carriers will be provided in random order.
3. SWBT does not anticipate that it will jointly market the services of PBCOM or that PBCOM will jointly market the services of SWBT; however, to the extent that they do so, if PBCOM is permitted to jointly market SWBT telephone exchange services, SWBT will permit other entities offering the same or similar services to market and sell SWBT telephone exchange services. If PBCOM receives

authorization to provide in-region interLATA services, SWBT may market or sell PBCOM's services as permitted. If SWBT markets or sells PBCOM interLATA service, SWBT will inform any customer who orders new local exchange services on an inbound call that it has a choice in long distance carriers, and on request will inform these customers of the names and the telephone numbers of carriers offering interexchange services in its service area. The names of such carriers will be provided in random order.

The information contained in this affidavit is true and correct to the best of my knowledge and belief.


Elizabeth A. Ham

Subscribed and sworn to before me this 7th day of April, 1997.




NOTARY PUBLIC

LINDA BUTCHART
NOTARY PUBLIC STATE OF MISSOURI
ST. LOUIS COUNTY
MY COMMISSION EXP NOV 19, 1998

My commission expires:

11-19-98

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In The Matter of

Application of SBC Communications Inc.,
Southwestern Bell Telephone Company, and
Southwestern Bell Communications Services,
Inc., d/b/a Southwestern Bell Long Distance,
for Provision of In-Region,
InterLATA Services in Oklahoma

CC Docket No. _____

**AFFIDAVIT OF JAMES A. HEARST
ON BEHALF OF SOUTHWESTERN BELL TELEPHONE CO**

STATE OF TEXAS)
) ss.
COUNTY OF HARRIS)

I, James A. Hearst, being of lawful age and duly sworn upon my oath, do hereby depose and state:

1. My name is James A. Hearst. I am Director - Planning and Engineering for Southwestern Bell Telephone Company (hereafter, "SWBT"). In this position, I am responsible for providing technical support and interpretations of tariffs concerning outside plant to employees in the marketing, network, and engineering groups. My business address is 6500 West Loop South, Zone 1.3, Bellaire, Texas 77401.

2. **PROFESSIONAL EXPERIENCE**

I have been employed by SWBT since 1964. From 1964 to 1969, I was a frameman, cable splicer, and switchman. From 1969 to 1977, I was a construction foreman,

splicing foreman, and a chief deskman. From 1977 to 1986, I was a supervising repair foreman, construction supervisor, and an installation and repair supervisor. In 1986, I became an Area Manager-Planning and Engineering (Regulatory Support). My current position is Director-Planning and Engineering for the Network Services Department. In that capacity, I am familiar with SWBT's procedures and practices with respect to access to poles, ducts, conduits, and rights-of-way owned or controlled by SWBT.

PURPOSE OF AFFIDAVIT

3. The purpose of my affidavit is to describe how, from an operational perspective, SWBT has satisfied the "competitive checklist" requirement that SWBT provide "[n]ondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by [SWBT] at just and reasonable rates." 47 U.S.C. § 271(c)(2)(B)(iii). To do so, I will describe the applicable legal requirements, as I understand them, including the manner in which SWBT is complying with provisions of the Pole Attachment Act, 47 U.S.C. § 224, as amended by the Federal Telecommunications Act of 1996 ("FTA 96").

BACKGROUND

4. Congress enacted the Pole Attachment Act in 1978. Under that Act, as originally enacted, SWBT was not required to grant access to its poles, ducts, conduits, or rights-of-way to either cable system operators or telecommunications carriers. If, however, SWBT chose to grant access to a cable system operator, the rates, terms, and conditions were subject to regulation by the Federal Communications Commission ("FCC"). SWBT chose to grant access to cable system operators and has had in place for

approximately 20 years practices and procedures for granting such access. By the end of 1996, cable operators had been granted access to approximately 116,237 poles and 5,391' of conduit in Oklahoma. In addition, SWBT chose, though not compelled by the Pole Attachment Act to do so, to provide access to telecommunications carriers other than cable system operators. Through March 31, 1997, telecommunications carriers in Oklahoma had been granted access to 183 poles and 27,766' of conduit. Telecommunications carriers which have signed licensing agreements for access to SWBT's poles, and conduits include American Communications Services, Inc., Brooks Fiber Communications of Oklahoma, Inc. and AT&T Communications of the Southwest, Inc.

5. In 1996, as part of FTA 96, Congress fundamentally overhauled the Pole Attachment Act by adding two new subsections to that Act. FTA 96 adds to the Pole Attachment Act a new subsection (f) that states the new legal requirement that "A utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it." 47 U.S.C. § 224(f). FTA 96 also adds a new subsection (e) directing the FCC to prescribe new regulations to govern the charges for pole attachments used by telecommunications carriers to provide telecommunications service. These regulations are to be issued no later than February 8, 1998, two years after the date of enactment of FTA 96, and are to become effective on February 8, 2001, five years after the date of enactment of FTA 96. 47 U.S.C. §224(e)(1),(4). In the meantime, under amended subsection (d), the rates applicable to cable system operators will apply to telecommunications carriers as well. 47 U.S.C. §224(d)(3). If, due to changed FCC

regulations, the rates permitted to be charged exceed the rates permitted to be charged to cable system operators, increases attributable to the changed regulations are to be phased in over a period of five years beginning on the effective date of such regulations. 47 U.S.C. §224(e)(4).

6. Following these fundamental changes in the Pole Attachment Act, SWBT will continue to provide access to its poles, ducts, conduits, and rights-of-way of way to cable system operators and telecommunications carriers. SWBT has, however, changed the manner in which it provides access to conform to changes in the law.
7. None of the five states in which SWBT is an incumbent local exchange carrier (Arkansas, Kansas, Missouri, Oklahoma, and Texas) have elected to regulate poles, ducts, conduits, and rights-of-way through the certification process as required by 47 U.S.C. § 224(c). Therefore, SWBT's pole attachment practices and procedures are based primarily on the Pole Attachment Act and applicable FCC rules, regulations, and orders interpreting and applying that Act.
8. On August 8, 1996, the FCC released its First Report and Order in CC Docket No. 96-98 ("First Interconnection Order"). Paragraphs 1119-1240 of that Order deal with poles, ducts, conduits, and rights-of-way. Some, but not all, of The First Report and Order are codified in the provisions of 47 C.F.R. 1.1401-1.1416.
9. The FCC has stated: "We note that a utility's obligation to provide access under section 224(f) does not depend upon the execution of a formal written attachment

agreement with the party seeking access. We understand that such agreements are the norm and encourage their continued use, subject to the requirements of section 224.” *First Interconnection Order*, ¶ 1160. Accordingly, SWBT will provide access to poles, ducts, conduits, and rights-of-way, in accordance with FCC requirements, even if there is no formal written attachment agreement with the party seeking access.

10. SWBT believes that it is in the mutual interest of all parties having access to SWBT’s poles, ducts, conduits, and rights-of-way that their respective rights and obligations be spelled out in a formal written agreement. For that reason, SWBT has developed a Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way which spells out the rates, terms, and conditions of access. The new Master Agreement can be executed as a stand-alone agreement or as an Appendix (“Appendix POLES”) to negotiated interconnection agreements. The new Master Agreement is based in large part on the provisions of the First Interconnection Order and replaces earlier licensing agreements drafted prior to the First Interconnection Order. The new Master Agreement also reflects the results of negotiations between SWBT and various parties negotiating interconnection agreements with SWBT and the results of state arbitrations resolving specified issues not resolved through negotiation. An earlier version of the Oklahoma Master Agreement has been signed by American Communications Services, Inc. (ACSI). The Master Agreement (“Appendix POLES”) included in SWBT’s Statement of Terms and Conditions provides terms and conditions more favorable to parties seeking access than the older licensing agreements and are available to all telecommunications providers, including those who have signed the older licensing agreements. In this affidavit, I will explain how the new Master Agreement addresses

the issues discussed in the First Interconnection Order.

OVERVIEW

11. As it exists today, SWBT's Master Agreement reflects input from numerous telecommunications providers. It features provisions that allow all parties to make plans based upon existing SWBT records and facilities, as well as provide immediate access when space is available. The access process is streamlined and fair, and SWBT is committed to working with telecommunications providers to streamline the access process further. The access process considers the needs of telecommunications providers to gain access quickly, control costs, and maintain orderly standards.
12. The importance of maintaining orderly standards is more important than ever before. Historically, only three or four firms (SWBT, the local cable operator, the electric utility, and in some cases an IXC or CAP) have typically used any particular SWBT pole or conduit section. The new access process contemplates that multiple providers will place unprecedented demands on SWBT's pole, duct, conduit, and right-of-way space. Access will be granted to all parties entitled to access except in exceptional circumstances when access cannot be granted due to lack of capacity or for reasons of safety, reliability, or other valid engineering concerns.

SUMMARY OF THE MASTER AGREEMENT

13. Articles 1 through 5 of the Master Agreement identify the parties, state the purpose of the Agreement, set forth definitions used throughout the Agreement, state the nature and scope of the Agreement, and state the access rights which are covered by the

Agreement.

14. Article 6 sets forth specifications to be followed by the parties, and includes several sections which deal specifically with requirements applicable to SWBT's conduit facilities. The FCC recognizes that "The installation and maintenance of underground facilities raise distinct safety and reliability concerns." *First Interconnection Order*, ¶ 1149. There are also security concerns.
15. Articles 7-10 contain the operational "heart" of the access application process.
16. Articles 11-18 deal with operational issues after access has been granted.
17. Article 19 deals with fees, charges, and billing. Appendix I sets forth a Schedule of Fees and Charges.
18. Articles 20-32 deal with legal issues arising out of the joint use of SWBT's facilities and contain the "boilerplate" contract language.

THE ACCESS APPLICATION PROCESS

19. Article 7 includes several provisions which facilitate the access application process. Section 7.01 provides for each party to establish a primary point of contact. For each party, these will be personnel who understand the terms of the Agreement, both administratively and operationally, and understand the importance and responsibilities associated with the Agreement. Section 7.03 provides requesting parties access to certain records and information relating to SWBT's poles, ducts, conduits, and rights-

of-way. Access to these records is not contingent on the filing of an application for specific space. Access to records is also provided to enable telecommunications carriers and cable system operators to determine what space they will request. Requesting parties may view records days, weeks, and months before filing applications for access. This allows competing providers a great deal of flexibility in making efficient planning decisions. The records will show not only facilities in service, but also work-in-progress “pre-posted” to the records. The records are working records which SWBT engineering personnel use to design their own construction projects.

20. Article 8 deals with pole, duct, and conduit space assignments. Section 8.01 permits requesting parties to select the space they intend to occupy. Section 8.02 sets forth the actual assignment process. Space may be provisionally assigned to a requesting party before the requesting party files a formal application for the space. This enables a requesting party to secure the space desired before submitting the formal application which SWBT must evaluate to determine whether access can be granted without a capacity expansion or other make-ready work.

21. Article 9 spells out the application process. The Master Agreement contemplates a “licensing process” in which the Applicant states what access is required and SWBT either grants or denies access. The term “license” is defined in the Master Agreement as “a written instrument confirming that SWBT has afforded Applicant ... access to specific space on or within a pole, duct, conduit, or right-of-way in accordance with

applicable federal or state laws or applications.” *Master Agreement*, § 3.16.

22. Section 9.02 calls on the party requesting access (referred to as the “Applicant”) to provide sufficient details for SWBT to analyze the Applicant’s proposed use of the space based on capacity, safety, reliability, and engineering considerations.
23. Section 9.05 describes the steps taken by SWBT to verify the availability of the space, to determine what make-ready work, if any, is needed, and to plan and engineer such make-ready work and estimate the costs associated with work.
24. Section 10.01 deals with SWBT’s response to a request for access. As required by FCC rules, SWBT must respond to the Applicant no later than 45 days after receiving the Applicant’s request. If access is granted, SWBT will advise the Applicant in writing what capacity expansions, make-ready work, or facilities modifications, if any, are required and an estimate of the charges associated with any such capacity expansions, make-ready work, or facilities modifications. If access is denied, SWBT’s response will include all relevant evidence and information supporting the denial, including an explanation of how such evidence and information relates to the denial for reasons of lack of capacity, safety, reliability, or generally applicable engineering purposes. Although Section 10.01 allows SWBT 45 days for SWBT to grant or deny access, SWBT expects that most applications will be granted in significantly less time than 45 days. In those unusual situations where a denial appears likely, SWBT will promptly contact the Applicant so that alternatives can be discussed.

25. Section 10.02 commits SWBT to expand capacity when necessary to meet an Applicant's access request. In most cases, the Applicant will pay for capacity expansion work. SWBT, however, contemplates that fiber and coaxial cables will be placed in inner duct so that SWBT's limited conduit resources can be more effectively utilized. SWBT, therefore, will place inner duct at SWBT's own expense. Further, if dead or inactive cables are discovered in conduits, thereby blocking the conduit, the expense of freeing such cables from constricted or frozen situations will be borne by the Applicant. SWBT will bear the related cable removal expense in order to make room for the Applicant's facilities.

26. Section 10.03 provides that applications for access that require no make-ready work or modifications will be granted immediately upon verification that the space is actually available.

27. Sections 10.04 and 10.05 deal with make-ready work and the performance of that work.

In general, SWBT will be responsible for make-ready work and the Applicant will pay for the performance of that work. SWBT will permit Applicants to perform certain kinds of non-intrusive capacity expansion work and make-ready work using qualified contractors jointly approved by the parties. In general, non-intrusive work is work such as transfers of cables and terminals, relocations, pole replacements, and other make-ready work that does not involve splicing, the opening of sheaths or terminals, or other kinds of work which might jeopardize service reliability or the privacy of customer communications. The Applicant will be permitted to perform make-ready work when SWBT cannot perform the work quickly enough to meet the Applicant's needs. In

addition, the Applicant may offer to perform make-ready work proposed by SWBT in accordance with SWBT's specifications and SWBT will not, without due cause and justification, refuse to accept the Applicant's offer to perform the work. To prevent delay and ensure the ability of others to use or plan for the use of SWBT's poles, ducts, conduits, and rights-of-way, the Applicant is called on to authorize proposed make-ready work within 20 days or contact SWBT within that time to negotiate alternative modifications or make-ready work. If the Applicant considers SWBT's make-ready requirements to be a denial of access, SWBT will provide the Applicant with specific information explaining why the make-ready work is required for reasons of capacity, safety, reliability, or other engineering considerations.

OPERATIONAL ISSUES AFTER ACCESS HAS BEEN GRANTED

28. Article 11 places responsibility for the actual construction of the Applicant's facilities on the Applicant itself.
29. Article 12 deals with the use and routine maintenance of Applicant's facilities. In general, the provisions of Article 12 call on the parties, although competitors, to act as responsible neighbors.
30. Section 12.03 deals with the installation of drop wire drive rings and J-hooks. In general, these attachments may be made without advance notice to SWBT or the advance issuance of a license. If drop wire drive rings or J-hooks are placed on a pole with respect to which the Applicant has no licensed space, the Applicant will be expected to secure a license after the fact. SWBT contemplates that such a license will

be routinely and quickly granted. These provisions will enable Applicants to make immediate attachments to meet service demands without advance notice to SWBT.

31. Section 12.04 permits all parties to make short-term use of maintenance ducts for repair and maintenance activities. In general, maintenance ducts are to be available for emergency use by all parties with facilities in a conduit section. Temporary, 30-day non-emergency use is authorized for such non-emergency uses as “cut-arounds.”

32. Section 12.05 calls on the Applicant to be responsible for the maintenance of its own facilities.

33. Article 13 deals with modifications of Applicant’s facilities and contemplates that streamlined procedures will be developed for the issuance of amended licenses when the modifications are substantial enough to require an amended license but not substantial enough to require additional make-ready work.

34. Article 14 deals with rearrangement of facilities at SWBT’s request. Section 14.02 recognizes that it may be necessary or desirable for SWBT to rearrange facilities on its poles or within its conduit systems, to change out poles, add poles to a pole line, relocate or reconstruct poles, pole lines, or conduit runs, enlarge manholes, reinforce conduit, or otherwise modify poles, pole lines, or portions of its conduit system. Changes of this nature may be required by SWBT’s own business needs or by factors outside SWBT’s control, such as a decision by a municipality to widen streets or the decision of another person or entity to seek access to SWBT’s poles, ducts, conduits, or

rights-of-way. Costs incurred by attaching parties in making such rearrangements are to be borne by the parties in accordance with then applicable statutes, regulations, and agency orders, including the Pole Attachment Act and regulations thereunder.

35. Article 15 deals with emergency repairs and emergency pole replacements. This article includes provisions providing for use of the maintenance duct for emergency repairs, provisions prescribing the order of precedence of work operations, and provisions permitting the short-term use of other unoccupied ducts in emergency situations. In general, access to emergency ducts and procedures for determining the precedence of repair operations for restoral work must be determined prior to an outage in order to avoid disputes at work sites when emergencies occur. Section 15.05 contemplates that affected parties at the site will make order of precedence decisions at the site in accordance with criteria stated in that section and that SWBT will determine the order of precedence of work operations only if the affected parties are unable to reach prompt agreement.

36. Articles 16 and 17 deal with inspections by SWBT, the tagging of facilities, and the procedures applicable for dealing with unauthorized attachments.

37. Article 18 places responsibility on attaching parties for the removal of their own facilities and authorizes SWBT, on 60 days notice, to remove an Applicant's facilities in those rare cases when the Applicant is required to remove the facilities and fails to do so.